

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KHALID N. KHAN,

Plaintiff,

v.

U.S. BANK NATIONAL ASSOCIATION
and S.A. CHALLENGER, INC.,

Defendants.

No. 2:22-cv-00954-DAD-AC PS)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
ACTION WITH PREJUDICE

(Doc. No. 3)

Plaintiff Khalid N. Khan proceeds *pro se* in this civil action. This matter was referred to a United States Magistrate Judge pursuant to Local Rule 302.

On June 8, 2022, the assigned magistrate judge issued findings and recommendations, recommending the dismissal of this action with prejudice because it is barred pursuant to the *res judicata* doctrine. (Doc. No. 3.) The findings and recommendations were served on plaintiff and contained notice that any objections thereto were to be filed within twenty-one (21) days of service. (*Id.* at 5.) Plaintiff filed timely objections. (Doc. No. 4.)

In his objections, plaintiff claims that he filed the instant complaint – a verbatim copy of his previously filed complaint in *Khan v. U.S. Bank National Association, et al. (Khan I)*, No. 2:13-cv-02596-KJM-CKD (E.D. Cal.), because “prior findings and recommendations of [the m]agistrate judge were never served to plaintiff” and he was unable to respond to them in time.

(*Id.* at 2.) Plaintiff also argues that *res judicata* does not apply here because the court never reached the merits of his claims in dismissing his complaint filed in *Khan I*. (*Id.* at 2.) Plaintiff requests leave to amend his complaint to present the additional documents that he has attached to his objections. (*Id.* at 3.)

A review of the docket shows that plaintiff was provided a full and fair opportunity to litigate his claims in *Khan I*. *Khan I*, No. 2:13-cv-02596-KJM-CKD. Plaintiff filed objections (Doc. No. 38, *Khan I*) to the findings and recommendations recommending dismissal of his third amended complaint in that action based upon his lack of standing. After the assigned district judge in that case adopted the findings and recommendations and dismissed the action, plaintiff subsequently filed a motion for reconsideration of that order (Doc. No. 40, *Khan I*) which was denied (*see* Doc. No. 41, *Khan I*). Additionally, *res judicata* “bars repetitious suits involving the same cause of action once a court of competent jurisdiction has entered a final judgment on the merits.” *United States v. Tohono of Odham Nation*, 563 U.S. 307, 315 (2011) (internal quotation marks omitted). Plaintiff continues to assert the same claims here as he did in *Khan I*, a case in which final judgment was entered on the merits of the claim, with the court finding that plaintiff lacked standing to bring his claims in federal court. (*See* Doc. No. 1; Doc. No. 39, *Khan I*.) In order to have standing to sue in federal court, a plaintiff must show that:

(1) it has suffered an ‘injury in fact’ that is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical; (2) the injury is fairly traceable to the challenged action of the defendant; and (3) it is likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision.

Friends of the Earth, Inc. v. Laidlaw Env'tl. Servs. (TOC), Inc., 528 U.S. 167, 180–81 (2000).

Plaintiff has not shown that he has new or different claims as to which he has standing to bring. The claims in his complaint in this instant action would result in the same judgment as was entered in *Khan I*—the very same repetition that the doctrine of *res judicata* attempts to avoid in preserving judicial resources. Plaintiff’s objections are therefore unpersuasive.

In accordance with the provisions of Local Rule 304, this court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, including plaintiff’s objections, the

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1 court concludes that the pending findings and recommendations are supported by the record and
2 proper analysis.

3 Accordingly,

- 4 1. The findings and recommendations issued on June 8, 2022 (Doc. No. 3) are
5 adopted in full;
- 6 2. This action is dismissed with prejudice; and
- 7 3. The Clerk of Court is directed to close this case.

8 IT IS SO ORDERED.

9 Dated: September 5, 2022


UNITED STATES DISTRICT JUDGE